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2 UNITED STATES DISTRICT COURT
3 DISTRICT OF NEVADA
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5 Latonia W. Lister,

6 Plaintiff,

7 v.

8 City of Las Vegas, et al.,

9 Defendants.
10

Case No. 2:21-cv-00589-CDS-VCF

**Order Granting Plaintiff's
Motion to Compel**

(ECF No. 25)

11 This is an action alleging violations of Title VII of the Civil Rights Act of 1964 and related
12 claims. *See generally* ECF No. 1. On July 19, 2022, Plaintiff Latonia W. Lister filed a motion to
13 compel the deposition appearance and testimony of Michael J. Benneman, a non-witness. ECF
14 No. 25. Plaintiff asserted that counsel for both parties met and counsel for Defendants “informed
15 Plaintiff’s counsel that he would not oppose the instant motion.” *Id.* at 4. The deadline to file an
16 opposition to the motion was August 2, 2022. *See* LR 7-2(b) (“the deadline to file and serve any
17 points and authorities in response to the motion is 14 days after service of the motion.”). No
18 opposition was filed. For the reasons set forth herein, the Court grants Lister’s motion.

19 **I. Discussion**

20 Pursuant to Federal Rule of Civil Procedure 30, Plaintiff seeks court approval to compel
21 the appearance and testimony of Michael J. Benneman, a retired, former Captain in the City of
22 Las Vegas’s Fire and Rescue Department. ECF No. 25 at 2. This motion was filed only after an
23 attempt was made for Mr. Benneman to appear at a scheduled deposition, and after counsel
24 complied with this District’s meet-and-confer requirement pursuant to LR IA 1-3(f). *Id.* at 2; 4.

1 Plaintiff learned that Mr. Benneman would not voluntarily appear in July of 2022, just before the
2 expiration of the discovery cut-off deadline.

3 Mr. Benneman appears to have direct information concerning Plaintiff's claims for relief.
4 See ECF No. 25 at 3 (stating that Mr. Benneman is a former supervisory employee of the city and
5 that many of Plaintiff's allegations relate to Mr. Benneman's conduct). The motion demonstrates
6 that Mr. Benneman's subpoena was issued in accordance with Fed. R. Civ. P. 45. *Id.* The motion
7 also demonstrates that Mr. Benneman was served at his residence with a subpoena and notice of
8 deposition on July 10, 2022. ECF No. 25-4 at 6. Service was accepted by a female identified as a
9 "co-resident." *Id.* The notice advised Mr. Benneman he was scheduled to be deposed on July 19,
10 2022, at 10:00 am at an address in downtown Las Vegas. *Id.* at 5-6. Mr. Benneman did not appear
11 for the deposition.

12 Given the information contained in the motion, I find good cause to grant Plaintiff's
13 motion to compel, which was not opposed by Defendants.¹ I also find good cause to modify the
14 previous discovery cut-off deadline to accomplish the taking of Mr. Benneman's deposition. See
15 Fed. R. Civ. P. 16(b)(4) (permitting modification "only for good cause and with the judge's
16 consent").

17 II. Conclusion

18 Accordingly, for the reasons set forth in this order,

19 IT IS HEREBY ORDERED that Plaintiff's Motion to Compel (ECF No. 25) is
20 GRANTED.

21 IT IS FURTHER ORDERED that counsel for Plaintiff shall schedule the deposition no
22 later than September 30, 2022.

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¹ Local Rule 7-2 provides that the failure of an opposing party to file points and authorities in response to any motion, except a motion under Fed. R. Civ. P. 56 or a motion for attorney's fees, constitutes a consent to the granting of the motion.

1 IT IS FURTHER ORDERED that the discovery cut-off deadline is extended until
2 October 1, 2022, for the purpose of taking Mr. Benneman's deposition only. This extension is
3 effective *nunc pro tunc* to July 25, 2022.

4 IT IS SO ORDERED.

5 DATED this September 2, 2022.

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Cristina D. Silva
United States District Judge